

EXHIBIT 233

Curling, Donna v. Raffensperger, Brad

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4 DONNA CURLING, et al.,
5 Plaintiffs, CIVIL ACTION FILE
6 vs. NO. 1:17-cv-2989-AT
7 BRAD RAFFENSPERGER, et
8 al.,
9 Defendants.

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DEPOSITION OF
JEFFREY SCHOENBERG
October 19, 2021
10:02 a.m.

TAKEN BY REMOTE VIDEO CONFERENCE
LaRita J. Cormier, RPR, CCR-2578

1 doing here, you know, what -- ask me the question
2 again. I'm sorry.

3 Q. I'd like for you to summarize your claims
4 in this case in your own words as you understand
5 them to be.

6 A. I am a plaintiff in this case because I am
7 seeking to protect my rights as a voter, to know
8 that my votes are counted as cast, that I have the
9 right to vote on a transparent, auditable, reliable
10 election system; and I know that I'm not getting
11 that now.

12 Q. And how did you become involved in this
13 case?

14 A. I became involved because I was asked to
15 join because I lived in DeKalb County, among other
16 things. They were looking to have somebody to
17 represent voters of DeKalb County on the plaintiffs'
18 group.

19 Q. And when you say you were asked to join,
20 who asked you to join?

21 A. Scott Holcomb.

22 Q. Okay. And do you recall about when that
23 was?

24 A. 2017, I guess. I don't know. At the
25 beginning of the case. I believe that I was on the

1 Q. All right. And ultimately what do you hope
2 to achieve by way of your participation in this
3 case?

4 A. To have my rights vindicated.

5 Q. And in a perfect world, how would that be?

6 A. The state would operate a transparent,
7 verifiable, auditable election system where I could
8 know for certain that when I cast a vote, it was
9 counted as cast.

10 Q. And can you give me an example of such an
11 auditable, transparent, and verifiable election
12 system?

13 A. No. The simplest that I'm aware of is the
14 hand-marked paper ballots.

15 Q. Would you be satisfied with any other
16 system other than hand-marked paper ballots?

17 A. Potentially, if it can be demonstrated that
18 it's all the things that it needs to be -- reliable,
19 transparent, verifiable, you know. If a system
20 could be made where I am -- I, the public and the
21 state, can know for certain that the system is
22 working as intended, that my vote counts the way I
23 intended, then I can be satisfied, yes.

24 Q. And would you consider yourself a member of
25 the Coalition for Good Governance?

1 A. At the time, the system had no voter
2 verifiable paper trail. It was on auto. A system
3 where there was no way of demonstrating by solid
4 proof that a vote had been counted as cast. So my
5 vote was being, you know, it was -- it was an
6 absolutely whack pot system that was improper as far
7 as I was concerned.

8 Q. Do you have any reason to believe your vote
9 in the 2017 Congressional District 6 Special
10 Election Or Special Runoff Election was not properly
11 recorded and counted?

12 MS. ELSON: Objection. Speculative.

13 BY MR. MILLER:

14 Q. You can answer, Mr. Schoenberg.

15 A. I don't have any reason to -- I don't have
16 any specific proof of that, nor do I have any proof
17 that it was counted as cast. I don't think such
18 proof is available in the universe as it currently
19 exists.

20 Q. Do you have any reason to believe that
21 other voters' votes in the 2017 Congressional
22 District 6 special election or runoff election were
23 not properly recorded and counted as cast?

24 MS. ELSON: Objection. Speculative.

25 You can answer.

1 A. I have no proof that they were not counted
2 as cast, nor do I have proof that they were counted
3 as cast.

4 BY MR. MILLER:

5 Q. And if you'll turn with me on this document
6 to page 61, paragraph 146. Just let me know when
7 you're there with me.

8 A. I'm there.

9 Q. Okay. Can you just take a minute to read
10 that, paragraph 146.

11 A. I read it.

12 Q. Okay. So you state here, quote, "The
13 electors who voted by paper ballot were able to vote
14 in the election using properly verifiable,
15 recountable ballots." Correct? Do you see that?

16 A. Yes.

17 Q. And when you're referring to "electors who
18 voted by paper ballots," are you referring to
19 absentee by mail voters?

20 A. Yes. I believe primarily the only paper
21 ballots that would have been used in our election
22 would have been absentee ballots. Provisional
23 ballots are also paper ballots. I guess that would
24 fall into that category too.

25 Q. Do you recall the relief you sought in this

1 Q. On the same page, if you'll move down with
2 me, do you see where it says, "The high profile June
3 20, 2017 Runoff Election between Karen Handel and
4 Thomas Jonathan 'Jon' Ossoff for Georgia's 6th
5 Congressional District took place in an environment
6 in which sophisticated hackers, whether Russian or
7 otherwise, had the capability and intent to
8 manipulate elections in the United States." Do you
9 see that?

10 A. I do see that.

11 Q. Do you believe that sophisticated hackers
12 have manipulated election results in the United
13 States?

14 A. I believe that it's possible.

15 Q. But you don't necessarily believe that it
16 happened?

17 A. I am not a conspiracy theorist. I am not
18 telling you something happened when I have no
19 evidence of it. I have evidence of the possibility
20 that hackers could have manipulated that election
21 and others. I'm relying on our experts for that.

22 Q. So just so that I understand, your
23 testimony here today is that you maintain voters can
24 never know who was legitimately elected, but you do
25 not maintain that elections in the United States

1 "relevant previous elections" includes the November
2 8, 2016, General Election, the 2017 CD 6 Special
3 Election and Runoff; correct?

4 A. Yes. That's what it says.

5 Q. Okay. And in your prior complaint, were
6 you previously contesting the 2016 general election?

7 A. I don't recall, sadly.

8 Q. To the best of your recollection --

9 A. Yeah. I honestly don't know the answer to
10 this question. I don't know.

11 Q. And of course the November 2016 general
12 election would have been the presidential election
13 in which President Trump was elected; correct?

14 A. 2016? Yes, 2016 was the presidential
15 election.

16 Q. Okay. So let's go to page 9 of the same
17 document, on paragraph 17. Do you see your name
18 listed there?

19 A. I do.

20 Q. Do you see where it says, "He casts his
21 ballot on DRE machines in all the Relevant Previous
22 Elections and intends to vote in all future
23 elections for which he is eligible"? Do you see
24 that?

25 A. I do see that.

1 of the DRE system. And as long as counsel is okay
2 with my answering.

3 MS. ELSON: Yeah, you can answer that.

4 THE WITNESS: Okay.

5 A. Yes, my primary -- my primary thinking here
6 is that the election was conducted on a system where
7 certifiable results were not possible. It is
8 impossible to come up with reasonable certifications
9 that the results reflected my specific intent when I
10 cast my ballot, and that was the basis of my
11 complaint, my individual complaint and my -- brought
12 myself to this case.

13 BY MR. MILLER:

14 Q. Do you believe the relevant previous
15 elections -- do you recall what I'm referring to
16 with that term?

17 A. I do.

18 Q. Do you believe that the relevant previous
19 elections were hacked or manipulated in any way?

20 MS. ELSON: Objection. Speculative.

21 You can answer.

22 A. I believe I've already answered that
23 question. I am not -- I don't know that anything
24 has been hacked. I do know that it's entirely
25 possible that something could be hacked, either a

1 past election or, frankly, a future election, given
2 what we're currently using as a system.

3 BY MR. MILLER:

4 Q. Do you believe in the relevant previous
5 elections that the incorrect winner of any election
6 was certified?

7 A. I don't have any information that would
8 support that, nor do I frankly have information that
9 I know for certain that it hasn't happened.

10 Q. Do you believe that your vote was altered
11 in any way?

12 A. No, I don't believe that my vote was
13 altered in any way; but I have no proof to suggest
14 that it wasn't.

15 Q. And with respect to any other votes?

16 MS. ELSON: Objection. Speculative.

17 You can answer.

18 A. That's too vague for me to answer, any
19 other votes. My votes, other people's votes? What
20 are we talking about?

21 BY MR. MILLER:

22 Q. I'll rephrase. Do you contend that any
23 other votes in the relevant previous elections were
24 altered in any way?

25 A. I don't make that contention. What I

1 contend is that votes can potentially be manipulated
2 and there would be no record of it such that you
3 could have a verifiable, trustworthy, certifiable,
4 auditable election. The state can't give me the
5 documented evidence to show that these things do not
6 happen. That's the contention.

7 Q. Okay. We can go off the record for a
8 minute.

9 (Recess 11:52 to 11:57 a.m.)

10 BY MR. MILLER:

11 Q. All right. So Mr. Schoenberg, I've shown
12 you and we discussed briefly the first few
13 complaints in this case; right?

14 A. That's what it seems like, yes.

15 Q. And as you understand it, can you describe
16 to me the current procedural posture of this case?

17 A. I would hesitate to characterize the
18 procedural posture of this case. It has been very
19 complicated to follow.

20 Q. As you understand it, where are we in the
21 procedural posture?

22 A. We are at the information gathering stage,
23 and I'm offering a deposition today. I don't know
24 what to tell you otherwise.

25 Q. Okay. Did you discuss this case with your

1 unauditale computer system that doesn't produce a
2 verifiable auditable paper trail.

3 Q. And of course what I'm -- strike that.

4 Mr. Schoenberg, the BMD system itself, can
5 you describe to me what the BMD system is?

6 MS. ELSON: Objection. Vague.
7 Speculation.

8 A. It is a computer-based system that
9 generates a piece of paper with a QR code that is
10 scanned into a system that purportedly reflects the
11 intention of the voter. I have no way of verifying
12 that it does in fact do that accurately every time
13 or that it has done so accurately when I have used
14 the system voting.

15 BY MR. MILLER:

16 Q. Okay. Have you ever voted on the BMD
17 system?

18 A. I have voted on the BMD system, yes.

19 Q. Okay. I'm going to mark here another
20 exhibit, and this will be number JS-5.

21 (Deposition Exhibit JS-5 marked)

22 BY MR. MILLER:

23 Q. Mr. Schoenberg, will you just let me know
24 when you see it on your end?

25 A. Hold on. Document is up now. Looking at

1 A. I don't dispute what's written here. I
2 would not characterize this case as being only about
3 risk by any stretch. Once you acquiesce, the risk
4 has been realized. You are suffering harm by voting
5 in an unverifiable way. I would not allow you to
6 characterize my stand here as -- you know, this is
7 not a speculative thing. This is not only about
8 risk. This is, the reality is I have been damaged
9 because my vote has not been reliably counted as
10 cast.

11 BY MR. MILLER:

12 Q. Going to ask you a couple questions about
13 what you just said there. When you say that your
14 vote has not been reliably counted as cast, do you
15 have any basis for that assertion?

16 A. Yes. The fundamental weaknesses of this
17 system is the evidence of what I just said.

18 Q. And what are those fundamental weaknesses?

19 A. There's no verifiable, human verifiable
20 record of my intent. So that when reportedly the
21 vote gets tallied, there's no way of saying
22 afterwards that it reflected what I intended to have
23 happen with my vote. I know after every vote I cast
24 on the system that I have essentially put my vote
25 into -- my intended vote into a black box, and what

1 comes out the other side may or may not be what I
2 intended, which is a harm to me. My vote is a
3 precious thing to me. It's -- it is my voice. It's
4 my participation in democracy and it's valued. And
5 I don't know for certain that it's getting heard.

6 Q. And so with respect to -- I think you
7 mentioned there that your vote was not verifiable.
8 Is that accurate?

9 A. Yes.

10 Q. Okay. And can you explain to me what you
11 mean by verifiable?

12 A. So the DRE system takes my touch of a
13 screen, turns it into a QR code that I couldn't read
14 when I was at the poll. I don't know if the QR code
15 accurately reflected what I intended or not; nor do
16 I know, frankly, that the QR code is getting read
17 properly later in the process. But regardless of
18 whether or not the system works, you know, there are
19 technical things in the system that are working or
20 not working, I will never know if my input was
21 correct. The only thing that gets assessed
22 afterwards is the bar code. That's insane.

23 Q. Okay. And I think you may have misspoke.
24 I don't want to put words in your mouth but you
25 referred to the DRE system.

1 A. I'm sorry. That was about the BMD system.
2 If I spoke improperly, it was a mistake.

3 Q. And so, in essence here, then, your qualm
4 or concern is with verifying the QR code; is that
5 right?

6 A. The utter possibility of that in the system
7 is a problem, yes.

8 Q. Because that is what's scanned in the
9 ballot scanner; is that accurate?

10 A. And what's tallied subsequently, yes,
11 that's accurate. And what's audited, given what I
12 understand about the audits. They keep going back
13 to the same set of data.

14 Q. And so explain to me there. Your
15 understanding of the auditing is that the QR code is
16 read again?

17 A. They're re-scanning the QR codes, yeah,
18 making sure that the numbers come up the same as
19 they did before.

20 Q. When you voted on the BMD, do you recall
21 the printed text on the ballot?

22 A. Yes.

23 Q. Did you review that text?

24 A. I personally reviewed the text. I knew my
25 action was a nullity, but I did it all the same

1 because I couldn't help myself.

2 Q. And when you say audit earlier talking
3 about the QR codes, are you referring to the risk
4 limiting audit?

5 A. No. I was referring to whatever the state
6 has attempted to do by way of an audit.

7 Q. Okay. So back to the document here, on the
8 same page, so again we're on page 5, paragraph 10,
9 do you see where the term, quote, "Relevant Previous
10 Elections" is defined for purposes of this
11 complaint?

12 A. Not yet.

13 Q. I'm sorry. I will have to --

14 A. This is paragraph 10.

15 Q. Page 5, paragraph 10, and it rolls over
16 into page 6.

17 A. Okay. I'm on that paragraph.

18 Q. Do you see the paragraph there?

19 A. I do.

20 Q. Okay. And so would you agree with me,
21 then, that here the term "Relevant Previous
22 Elections" means the November 8, 2016, General
23 Election; the April 8, 2017, 6th Congressional
24 District Special Election; the June 20, 2017, 6th
25 Congressional District Runoff election; and the May

1 2018 and November 2018 General Elections? Do you
2 see that?

3 A. I do.

4 Q. And you would agree that collectively those
5 are referred to here as the Relevant Previous
6 Elections?

7 A. Yes.

8 Q. Okay. I don't recall an assertion of
9 claims about the May 18 and November 18 general
10 elections previously. Am I correct there?

11 A. I don't know what you recall.

12 Q. Your previous versions of the complaint
13 didn't assert claims regarding those elections?

14 A. I don't believe so; but then again, I think
15 they were written before those dates.

16 Q. Okay. And so we discussed those other
17 elections before, but any reason to believe the 2018
18 elections were invalid?

19 A. If you use a faulty election system, you
20 have potentially faulty results, so the reason -- as
21 I understand it, the reason these additional
22 elections were included is that the complaint is
23 relevant as to up until the point where this gets
24 corrected. Every election on these systems are --
25 including the BMD system is flawed because of these

1 unverifiable, unreliable, because it cannot be
2 properly audited. There is no -- there is no record
3 to tell me that these elections are properly counted
4 and that my vote particularly gets counted as cast.

5 Q. Do you have any reason to believe the 2018
6 election results were manipulated in any way?

7 A. I don't have any evidence of that, nor do I
8 have evidence to the contrary.

9 Q. But you're not contending that is the case;
10 right?

11 A. No.

12 Q. Not contending that the incorrect winners
13 were certified in those elections?

14 A. I am not contending that. I don't have
15 evidence of that. But I do not have evidence to the
16 contrary. I don't believe these could be properly
17 certified because the system is fundamentally
18 flawed.

19 Q. Okay. If you'll turn with me to page 8,
20 pages 8 and 9 of the document, paragraph 17. If
21 you'll just let me know when you're there.

22 A. We're there. Make it bigger. Yeah, that's
23 easier.

24 Q. So would you agree with me that this
25 paragraph looks fairly similar to the ones we

1 A. Yeah, I see that.

2 Q. Do you recall voting absentee by mail for
3 the November 6, 2018, election?

4 A. Not with any specificity.

5 Q. Do you have any reason to doubt the
6 accuracy of this report?

7 A. No. I mean, it's entirely possible I voted
8 absentee.

9 Q. Okay. Now let's go back to JS-5 on page 8.
10 And it says here you cast your ballot on DRE
11 machines in all the relevant previous elections;
12 right?

13 A. It does say that, yeah.

14 Q. But November 6, 2018, election, you did not
15 cast your ballot on a DRE machine; correct?

16 A. It appears that's correct. That one time I
17 used the absentee ballot process. I apparently did
18 not remember that.

19 Q. Okay.

20 A. Didn't have any way of going back and
21 knowing that.

22 (Attorney Zach Fuchs joined.)

23 A. I will tell you the absentee ballot process
24 is burdensome. I don't like it, and it does not
25 feel to me like full civic participation in the

1 communal process of voting. I prefer to vote in
2 person. So whenever I can, I will be -- I vote in
3 person. Apparently that day I couldn't go, or knew
4 I couldn't go, so I got the absentee ballot.

5 Q. So you described the absentee ballot system
6 as burdensome and you don't like it. Can you be
7 more specific?

8 A. I have to plan ahead. You have to use the
9 mail multiple times. You have to trust that it's
10 going to be processed in a timely manner. I have
11 recently been forced to use that system, or tried to
12 use that system only to have it fail on me where my
13 request didn't get processed. It also commits you
14 to voting potentially, you know, early. You get the
15 ballot, you don't want to lose it. You want to
16 vote. It can be quite a bit earlier than the
17 election, which is not necessarily when you want to
18 cast a vote, if you're me. It's just far from
19 ideal.

20 Q. And you said there just a minute ago you
21 had an instance where a request was not processed.
22 Did I hear that correctly?

23 A. Yes.

24 Q. And when was that?

25 A. I would need to look at the dates. It was

1 the combined Public Service Commission-U.S. Senate
2 Runoff race that took place most recently. That was
3 January 5th of 2021, I think.

4 Q. And can you describe what happened with
5 your request?

6 A. I've actually described it already in the
7 last declaration. I made application for an
8 absentee ballot -- I'm sorry, we're getting messages
9 in the middle of the screen.

10 Q. I'm sorry?

11 A. No. There's something up on the screen.

12 I made application for an absentee ballot
13 via e-mail. There's a system in DeKalb County where
14 you can make application electronically. I got a
15 confirmation that my request had been received. I
16 never got a ballot. It turns out that I made a
17 request before the decision had been made to combine
18 the Public Service Commission Runoff and the Special
19 Election Runoff, the Senate races. They were
20 originally going to be on two different dates. My
21 application was handled apparently as a nullity
22 after the decision was made to combine the dates.
23 They never mailed me a ballot. It got to a point
24 where I was never going to get an absentee ballot
25 because it was too late. I ended up voting in

1 person. I think I voted in person early for that
2 race. But I did not vote absentee by mail, which
3 had been my original intention.

4 Q. And all that you just described to me,
5 where did you glean that information? Did you talk
6 to the DeKalb Board of Elections or --

7 A. Lived experience. I mean, I didn't tell
8 you anything about what they did. I told you what I
9 saw. The newspaper -- I mean, the fact that those
10 two races got combined is public information.

11 Q. Right. I'm not referring to that. I guess
12 I'm asking -- you stated something along the lines
13 of you understood your request was not processed.
14 Did somebody, some government official tell you
15 that?

16 A. No, no. Nobody ever responded -- after the
17 confirmation that the request had been processed,
18 all we got was silence. Nobody ever communicated
19 again, and I never got a ballot.

20 Q. And that confirmation, who did that come
21 from?

22 A. There wasn't a confirmation.

23 Q. I'm sorry, you just referred to --

24 A. Oh, oh. The initial confirmation was an
25 e-mail from DeKalb voter registration office or

1 whatever they call it.

2 Q. Right. Okay. And did you make any
3 additional calls or e-mails to the DeKalb officials
4 about this situation?

5 A. No. I waited for my ballot to arrive. I
6 didn't know how long it was going to take.

7 Q. Okay.

8 A. It didn't arrive. I at some point came to
9 realize it wasn't coming. I didn't ask anybody. I
10 just voted in person.

11 Q. Okay. All right. Do you recall the
12 elections in which you voted on a BMD?

13 A. Not without being reminded, no.

14 Q. Okay. But you have used them before;
15 correct?

16 A. I have used them I think at least twice.

17 Q. Okay. And did you have any problems when
18 using them?

19 A. I recall -- the first time I used it, I
20 recall being struck by the -- how poor the
21 instructions were to actually make the machine work.
22 Once you put the voter card in the slot, the
23 instructions were not clear about how to proceed.
24 And I recall thinking how poorly it was -- that was
25 set up. I got through the process, however. I also

1 recall being struck by how visible all of the
2 machines' screens were as you walked through that
3 room. The setup was such that there was very little
4 privacy, that everybody's screen was visible to
5 everybody else, and that bothered me. I don't know
6 that anybody was looking, and I wasn't trying to see
7 anybody else's activities, but I was disturbed by
8 the fact that if somebody was motivated to watch
9 what somebody was doing, it was incredibly simple to
10 achieve that end, and that seemed pretty
11 significantly wrong.

12 Q. But you didn't have any difficulty casting
13 your ballot on the BMD system; right?

14 A. After the initial confusion, it was not
15 hard to touch the screen and take my selections.
16 That is not casting a ballot on the BMD system, no.

17 Q. And I understand the distinction there, so
18 you finished on the touchscreen, and the system
19 printed out a paper ballot; right?

20 A. That's correct.

21 Q. And of course we discussed before the
22 printed summary of the text on the ballot; right?

23 A. We mentioned it, yes.

24 Q. Okay. And did you review that when you
25 voted on the BMDs?

1 A. I did. I looked to see what it said.

2 Q. Before you put it into the scanner?

3 A. Yes. And as I said the last time we talked
4 about this, as I was doing it, it occurred to me
5 what a silly thing it was to do, because what I was
6 reading was not what was being read by the machine.
7 So I could get some false sense of security that at
8 least to the stage of the printing of that piece of
9 paper, there was some understanding of what my
10 intention was. But I had absolutely no faith in my
11 understanding that the system would continue to
12 understand my intention once I went to the scanner
13 and had to rely on the QR code.

14 Q. And so you've tried both BMDs and absentee
15 by mail ballots, then; right?

16 A. Yes.

17 Q. Both voting systems?

18 A. I have both things, yes.

19 Q. And if I can understand your testimony
20 right, your preference is not to vote absentee; is
21 that correct?

22 A. Yes. I much prefer to engage in the
23 process of voting in person where I can thank the
24 workers who are there when I can participate in a
25 communal activity, I can feel like I'm doing

1 something that is exercising my democratic
2 responsibilities. I like going to vote. I used to
3 take my children with me to go vote. It's an
4 important ritual for me.

5 Q. But would it be accurate for me to say
6 you're not -- I guess you wouldn't rule out -- of
7 the two options you have right now, you wouldn't
8 necessarily rule one of them out entirely
9 regardless. Is that accurate?

10 A. No, I wouldn't rule out either of them. I
11 think they're both flawed. My current options both
12 are lousy. One of them is burdensome and somewhat
13 unreliable, that's the absentee system. One of them
14 is unreliable because the system itself cannot be
15 trusted, cannot be verified, is not in any way
16 auditable in a way that is transparent and we know
17 that my vote gets, how it gets cast. So I'm --
18 under various circumstances that might arise, I
19 might choose one or the other, and I will be unhappy
20 either way because I don't think that my vote should
21 be burdened. I don't think that I should be
22 constitutionally denied an adequate system for
23 voting. I put constitution in the wrong place.
24 System that's constitutionally acceptable.

25 Q. Okay. So let's go back to Third Amended

1 auditable. I haven't seen that in this case.

2 BY MR. MILLER:

3 Q. And so I take that by implication to then
4 mean your belief is that hand-marked paper ballots
5 are verifiable and auditable. Is that accurate?

6 A. Yeah. I mean, it takes a bunch of other
7 stuff other than just the paper to make a -- to have
8 a system that is reliable and auditable to know that
9 you're getting the correct results, that your
10 results reflect the intention of every individual
11 voter. But yes, you can design a hand-marked paper
12 ballot system that is sufficiently reliable to
13 guarantee people's constitutional right to vote, to
14 be heard. And plenty of states use them, so it
15 doesn't seem like a controversial statement.

16 Q. Let me ask you a question about the
17 document again. If you can go with me to
18 subparagraph (b) here. Can you describe to me the
19 minimal and legally required steps to ensure such
20 equipment cannot be operated without authorization?

21 MS. ELSON: Objection. Calls for a legal
22 conclusion.

23 You can answer.

24 A. That also requires technical knowledge that
25 I just don't have.

1 BY MR. MILLER:

2 Q. Okay.

3 A. That's where I rely on experts to tell me
4 if they're telling anybody.

5 Q. Okay. That leads into my next question.
6 You referred to relying on your experts in this
7 case. Who are those experts?

8 A. We talked about him before. His name is
9 slipping my mind. You want to give me a hint? It's
10 Halderman, primarily. There have been others along
11 the way who have offered that information, but
12 primarily Halderman.

13 Q. So when you state that you relied on
14 evidence of the experts in this case, you're
15 referring to Dr. Halderman? Is that accurate?

16 A. Yeah, I think primarily, yes, who has
17 provided the evidence here.

18 Q. Okay. Any other --

19 A. I would not like to characterize the
20 testimony and information provided by some of the
21 other people that have been involved in this case as
22 unimportant. Frankly, I don't know, you know,
23 everything that's been said by everybody or
24 everything that's been offered up by all the people
25 that have offered testimony.

1 election management, Georgia's election management
2 system, software that stood behind the machinery.

3 Q. And towards the end of that paragraph you
4 state, quote, "I have little reason to believe in
5 the integrity of any Georgia election under that
6 system." Do you see that?

7 A. Yes.

8 Q. And when you say you have little reason to
9 believe in the integrity, what do you mean by that?

10 A. I mean that -- that running elections on
11 systems that are not verifiable, which I think we
12 have done much to demonstrate in this case, suggests
13 that there isn't -- it's not rational to just
14 believe it, that the system is fine and dandy.

15 Q. So you don't believe in the results of any
16 election in Georgia under that system?

17 A. I didn't -- I didn't say that.

18 MS. ELSON: Yeah. Objection. That
19 mischaracterizes testimony.

20 A. What I have said and what I will continue
21 to say is that without evidence of the actual
22 recording and counting of votes in a reliable
23 transparent way, there is always the question of
24 whether the elections are being operated fairly and,
25 more importantly to me personally, whether my vote

1 counted. I don't know that that vote has counted.
2 I would like to know that. And every time I vote on
3 a system that is not reasonably secure, I can't know
4 that I have participated in the democratic process
5 in a meaningful way. That's the source of the harm
6 here.

7 Q. So that harm there is the, for lack of a
8 better term, the feeling of not counting? Is that
9 somewhat accurate?

10 A. I certainly wouldn't put it that way. When
11 you go to the poll, you intend to have a voice in
12 the governance of your municipality, your state,
13 your city, your whatever, the country as well. And
14 it would be a really important thing for every
15 citizen to know that when they do that, it matters.
16 And for me, it's a hugely important thing to know
17 that when I do it personally, it matters. And when
18 I went to the poll with my 11-year-old daughter, I
19 would like to be able to look her in the eye and say
20 the thing I am doing today matters, and when you're
21 old enough, it's going to matter to you. And the
22 tragedy was I was voting on a system that I knew
23 wasn't necessarily capturing my intent, my vote.
24 And so I might have been expressing my opinion, my
25 voice in the democratic process, but it might have

1 just been getting blown away in the wind. And so I
2 felt somehow cheated by that experience.

3 It still bothers me because as I became
4 more involved in this, and I would communicate with
5 my children what I was doing and why I was doing it.
6 And I know that it undermines something of their
7 feeling about the importance of going to vote if the
8 system is not reasonably reliable in recording that
9 vote. That's what I complain about.

10 The constitution says I should have a
11 meaningful voice, because I am a citizen of the
12 United States in the state of Georgia in DeKalb
13 County. And I take that to mean something. And I
14 would like to know that when I express that opinion,
15 somebody hears it, that it gets counted, and it gets
16 counted along with the votes from everybody else who
17 voted for whatever reasons and however much they
18 care, they expressed their opinion. And all of that
19 gets tallied up and the winners win and the losers
20 lose and government works because everybody knows
21 they're involved in it. I frankly don't know if I'm
22 involved in it the way that I intended because I
23 don't know for certain that this system is doing
24 what it's intended to do but not trustworthy to do.
25 Is that clear?

1 A. I see that.

2 Q. But you voted on the BMD system in spite of
3 this; right?

4 A. I did. And right after this is when -- I
5 mean, shortly after this, I imagine, I applied for
6 an absentee ballot that I never got; and I went and
7 voted in person. And I have done that again, I
8 mean, I believe. My purpose, to be clear, I would
9 much rather vote in person.

10 Q. Do you recall how you voted in the March
11 2020 presidential preference primary?

12 A. Not with any specificity.

13 Q. Okay. And just to be clear, by that I
14 don't mean who you voted for but what manner you
15 utilized --

16 A. I understood your question. I don't recall
17 specifically right now.

18 Q. Okay. Could you turn back to JS-6, which
19 is the voter history. And just let me know when you
20 have that pulled up.

21 A. It's up.

22 Q. Yeah. So if you'll scroll with me down
23 there, it's second page, March 24, 2020, PPP.

24 A. Okay. It says Absentee.

25 Q. Okay. Now if you'll turn with me to JS-7,

1 and just let me know when you have that up.

2 A. It's up.

3 Q. And if you'll look on the first page there,
4 do you see March 24, Presidential Preference
5 Primary?

6 A. I do.

7 Q. Okay. And you see there March 10, 2020,
8 Date Requested, do you see that?

9 A. I do.

10 Q. And do you see the next line, Ballot
11 Request Type, In Person?

12 A. Yes.

13 Q. Okay. And of course the date the ballot
14 received is --

15 A. The same.

16 Q. -- the same date as the date requested?

17 A. Yes, sir.

18 Q. March 20, 2020?

19 A. Right.

20 Q. So did you vote early in person for the
21 Presidential Preference Primary in 2020?

22 A. Assuming this document is correct, yes,
23 that's what I did.

24 Q. Okay. And so now if you'll go back with me
25 to the declaration we were just looking at. Are you

1 with me?

2 A. Yes.

3 Q. And just to make sure we're talking about
4 the same thing, that's JS-10; correct?

5 A. Yes, it's JS-10.

6 Q. Okay. And you see the date at the top of
7 that document?

8 A. 8/19/20.

9 Q. Okay. So at the time you wrote this
10 declaration, you knew you had already voted on the
11 BMD system; right?

12 A. Yeah, I guess so.

13 Q. Okay. You didn't feel forced to vote by
14 absentee in the 2020 Presidential Preference
15 Primary?

16 A. No. But I mean, again, I really memorable
17 experience voting in that election thinking that
18 there was no privacy and that I couldn't trust that
19 any effort I made to review my ballot made it. It
20 was an inadequate, disturbing experience to vote
21 using the BMDs. So it does not surprise me that I
22 was willing to say on this page that I -- that I
23 anticipated I'd be choosing to vote by absentee
24 ballot. But again, having tried to vote by absentee
25 ballot subsequent to this and finding it burdensome

1 to the point of not working, I have chosen this
2 poison rather than the other in subsequent elections
3 because I like to vote in person.

4 Q. I'm sorry, can you repeat that, you've
5 chosen this poison over the other, and you're
6 referring to --

7 A. I'm referring to the two methods of voting
8 that might be available to me. Either an absentee
9 ballot system that is burdensome and sometime
10 doesn't work, or a BMD system that is not reasonably
11 reliable. Those are my two options, and I'm
12 choosing between one of the bad options every time I
13 vote. At the time of this declaration, it does not
14 surprise me that I said my intention was to vote by
15 absentee because I'd had a bad experience with the
16 BMDs.

17 But I also can agree to change my mind
18 about how I'm going to behave on election day. I
19 don't think I'm bound to live one way or another
20 forever because I wrote a declaration. I think that
21 the key point is that there is no good voting system
22 presently available to me. If I want to express my
23 opinion, I've got either a burdensome system on one
24 side or an unreliable system on the other, or a not
25 reasonably reliable system, call it. And I am aware

1 of the drawbacks I have to take, because I do want
2 to participate.

3 Q. Okay. I'm going to show you an additional
4 document here. Actually, I'm sorry, before we move
5 off this declaration, I apologize. In paragraph 12
6 you state, quote, "Were the court to order that
7 Georgia cannot implement and use the Election System
8 but must instead used hand-marked paper ballots
9 which a voter can review to verify his votes are
10 cast as intended and will be counted as cast, I
11 would perceive less risk in casting my ballot in
12 person." Do you see that?

13 A. Yes.

14 Q. Okay. And do you believe that that risk of
15 casting your ballot in person, when you exercised
16 it, that that has come to fruition and in fact
17 deprived you of your vote?

18 MS. ELSON: Objection. Calls for a legal
19 conclusion.

20 A. Ask --

21 MS. ELSON: You can answer.

22 THE WITNESS: Thank you. Sorry to
23 interrupt.

24 A. Ask me the question one more time, please.

25 MR. MILLER: Will the court reporter read

1 back the pending question?

2 (The reporter read the requested material.)

3 BY MR. MILLER:

4 Q. So the question there, Mr. Schoenberg, is
5 do you think that the risk that you discuss here in
6 paragraph 12 actually came to fruition and deprived
7 you of your vote when you voted on BMDs?

8 A. Yes, absolutely, it came to fruition, it
9 happened. I could not leave the ballot -- the
10 polling place with knowledge that I had meaningfully
11 participated in the election. So I am conscious now
12 of the harm that was done me the day of the vote,
13 the day of my vote. I am conscious that the next
14 time I go to vote will still be a violation of my
15 constitutional right to express my opinion in a way
16 that I know will be respected, that it will be heard
17 as intended. The risk came to fruition because the
18 system is not reasonably reliable.

19 Q. All right. Now I am going to show you
20 another document, and we will mark this exhibit as
21 JS-11.

22 (Deposition Exhibit JS-11 marked)

23 BY MR. MILLER:

24 Q. Let you know when you have it on your end.

25 A. Yeah, it's up.

1 to, you know, fake accounts on Facebook. That's not
2 what I mean. It means hacking into.

3 Q. So that's what I want to focus on is that
4 second category of hacking or manipulation. Okay?
5 Are you following me?

6 A. Yeah.

7 Q. So the accounts of individuals from Russia
8 hacking into elections, are you aware of any
9 accounts establishing that Russians manipulated
10 elections in that manner?

11 A. No, I'm not aware of any accounts of
12 Russian manipulation of elections. I believe I am
13 aware of accounts of Russian hacking into databases
14 that were not supposed to be publicly available in
15 election other than -- election systems other than
16 in Georgia. I cannot give you specifics as to
17 states, but I seem to recall that some of that came
18 out.

19 Q. Okay. I'm going to show you another
20 document here.

21 MS. ELSON: We've been on the record for
22 about an hour. Do you have --

23 MR. MILLER: Do you want a break or --

24 MS. ELSON: How are you doing,
25 Mr. Schoenberg?

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I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.

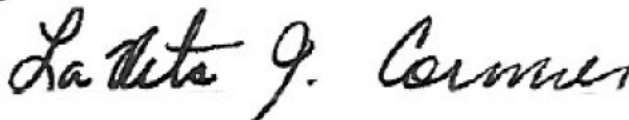
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I have no relationship of interest in this matter which would disqualify me from maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.

I have no direct contract with any party in this action and my compensation is based solely on the terms of my subcontractor agreement.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

This tr



LaRita J. Cormier, RPR, CCR No. 2578

1 ERRATA

2 I, the undersigned, do hereby certify that I have
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4 ___ There are no changes noted.

5 X The following changes are noted:

6 Pursuant to Rule 30(7)(e) of the Federal Rules of
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13 necessary, please furnish same and attach.

14 Page ____ Line ____ Change _____

15 Please see attachment.

16 Reason for change _____

17 Page ____ Line ____ Change _____

18 Reason for change _____

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1 Page ____ Line ____ Change ____

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6 Reason for change _____

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8 _____

9 Reason for change _____

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12 Reason for change _____

13 Page ____ Line ____ Change ____

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15 Reason for change _____

16 Page ____ Line ____ Change ____

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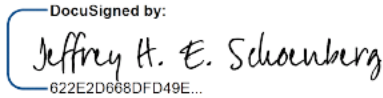
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ERRATA SHEETCase Name: *Curling v. Raffensperger*, No. 1:17-cv-02989-ATCorrections to Deposition Transcript of Jeffrey H. E. Schoenberg
(October 19, 2021)

<u>Page No.</u>	<u>Line No.</u>	<u>Correction From</u>	<u>Correction To</u>	<u>Reason for Change</u>
13	10	graduate	graduated	Transcription error
30	17	database	campaign	Transcription error
54	2	It was on auto.	It was unauditale.	Transcription error
54	6	absolutely whack pot system	absolute black box system	Transcription error
57	3	was motivated	was not motivated	Transcription error
75	7	Frequently doesn't really mean much of anything. That doesn't mean specifically. When necessary.	Not frequently, but that doesn't mean sporadically... when necessary.	Clarification
81	6	The utter possibility of that in the system	The utter impossibility of verifying the QR code in the system	Clarification
99	17	vote gets,	vote gets counted,	Transcription error
103	19	but you can also	that you can also	Transcription error
105	4	That's where I rely on experts to tell me if they're telling anybody.	That's where I rely on experts to tell me.	Clarification
112	8	on	in	Transcription error

<u>Page No.</u>	<u>Line No.</u>	<u>Correction From</u>	<u>Correction To</u>	<u>Reason for Change</u>
115	3	They wouldn't be involved	They would have been involved	Transcription error
130	8	purpose	preference	Transcription error
132	16	really memorable	remember the	Transcription error
143	18	acting	actor	Transcription error
145	2	into	too	Transcription error
146	25	recently	reasonably	Transcription error

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Date